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6 **UNITED STATES DISTRICT COURT**  
7 **EASTERN DISTRICT OF WASHINGTON**  
8 **AT SPOKANE**

8 AMANDA BANTA, et al.,

9 Plaintiffs,

10 v.

11 ROBERT W. FERGUSON, Attorney  
General of the State of Washington,  
et al.,

12 Defendants.  
13

NO. 2:23-cv-00112

DECLARATION OF RYAN BUSSE  
IN SUPPORT OF STATE  
DEFENDANTS' OPPOSITION TO  
MOTION FOR PRELIMINARY  
INJUNCTION

14 I, Ryan Busse, declare as follows:

15 1. I am over the age of 18, competent to testify as to the matters herein,  
16 and make this declaration based on my personal knowledge. I am a former senior  
17 executive in the firearms industry and the author of Gunfight: My Battle Against  
18 the Industry that Radicalized America (New York: PublicAffairs, 2021).

19 2. This declaration is based on my own personal knowledge and

1 experience, and if I am called to testify as a witness, I could and would testify  
2 competently to the truth of the matters discussed in this declaration.

3 **I. BACKGROUND AND QUALIFICATIONS**

4 3. I was raised with firearms as an integral part of my life. I began  
5 shooting with various guns as a young boy and continued to regularly use and  
6 study guns throughout my life (I am now 53). After graduating college, I entered  
7 the firearms industry in 1992. I became a sales executive in the firearms industry  
8 in 1995, and I spent more than 25 years in this role. While in the industry, I  
9 developed innovative sales teams, maintained relationships with the largest  
10 national retailers, and was responsible for worldwide sales of millions of  
11 firearms. I built a dealer-direct sales network that included more than 2500  
12 firearms dealers including locations in all 50 states, and I regularly visited these  
13 dealers. In my job, I also studied and built sales programs that relied on  
14 understanding the technical nature of most firearms available in the U.S. market,  
15 including AR platform guns and other types of rifles. During my career, I played  
16 an integral role in building one of the largest firearms companies in the United  
17 States, Kimber, and I was nominated by shooting industry leadership many times  
18 for the SHOT Business “Shooting Industry Person of the Year” Award. I served  
19 in an executive sales capacity as Vice President of Sales until August 2020. While

1 in the industry I served as an advisor to the United States Senate Sportsmen's  
2 Caucus, and as the North American board chairman for Backcountry Hunters &  
3 Anglers, a national wildlife conservation and hunting organization.

4 4. I left the firearms industry because I was concerned about what I  
5 believed to be irresponsible and dangerous marketing and sales practices. Since  
6 I left, I have served as an advisor to the 2020 Biden presidential campaign, I have  
7 testified twice before the U.S. Congress about the firearms industry and gun  
8 policy (before the House Committee on Oversight and Reform and the Joint  
9 Economic Committee, respectively), I have been called to testify in closed door  
10 briefings at the U.S. Senate, and I currently serve as a Senior Advisor to Giffords.  
11 I remain a proud and active gun owner, outdoorsman, and advocate for  
12 responsible gun ownership. I have provided expert witness testimony in *Miller v.*  
13 *Bonta*, No. 3:19-cv-01536-BEN-JLB (S.D. Cal.); *Duncan v. Bonta*, No. 3:17-cv-  
14 1017-BEN-JLB (S.D. Cal.); *Oregon Firearms Federation Inc. v. State of Oregon*,  
15 Case No. 2:22-cv-01815-IM (D. Oregon); *National Association for Gun Rights*  
16 *v. City of Highland Park, Illinois*, Case No. 1:22-cv-04774 (N.D. Ill.); *Brumback*  
17 *v. Ferguson*, Case No. 1:22-cv-03093-MKD (E.D. Wash.), and *Sullivan v.*  
18 *Ferguson*, 3:22-cv-05403-DGE (W.D. Wash.).  
19

## II. OPINIONS

5. I have reviewed the pertinent Washington law which defines and governs the sale of "Assault Weapons" and I am familiar with the history, features, and function of these guns.

6. With regard to the opinions I offer below pertaining to the features and characteristics of assault weapons or assault rifles, I focus on several prominent defining features generally found on most such weapons regardless of platform. However, I pay particular attention to AR-15 platform firearms and all such copies, duplicates or derivatives, because firearms based on this particular platform are now by far the most prevalent assault weapons in the United States and are therefore particularly illustrative of the issues in this case.

7. Semiautomatic rifles, including AR- and AK-platform rifles, as well as semiautomatic pistols and shotguns, are capable of firing one shot per each pull of the trigger. Each firearm is chambered for specific ammunition cartridges. Centerfire firearms are chambered for specific centerfire cartridges, which have the primer (the component that ignites the propellant) located in the center of the base of the cartridge case (as opposed to the rim of the cartridge). Today's modern rimfire ammunition is almost always confined to small and less powerful cartridges, such as the .22LR. Bullets fired from these cartridges are small and

1 light and move slower than almost all centerfire rifle ammunition. Rimfire  
2 chamberings are common in youth and “beginner” hunting rifles because they are  
3 relatively quiet and inexpensive and have low recoil. Conversely, modern  
4 centerfire ammunition requires a detonation of a primer in the center of the  
5 cartridge (CENTERfire) and these cartridges are generally much more powerful  
6 than rimfire cartridges. As an example, the .223, which is the most common AR-  
7 15 cartridge, fires bullets at more than 3000 feet/second, whereas a rimfire  
8 cartridge typically propels bullets at around 1100 feet/second. This increased  
9 centerfire velocity greatly increases the range and lethality of centerfire  
10 cartridges.

11 8. Most handgun cartridges are also now centerfire, and these  
12 cartridges generally fire bullets much larger than rimfire cartridges, usually at  
13 velocities of between 800 and 1500 feet/second. Generally all AR-15 firearms are  
14 derivatives of the Armalite Rifle (AR) model 15, which was originally designed  
15 for the United States Military in the late 1950s. The AR-15 was specifically  
16 designed to satisfy clearly stated military requirements for an assault rifle. The  
17 AR-15 incorporated features that achieved these requirements, which included:  
18 being lightweight, easily portable, accurate, high-capacity-capable, low recoil,  
19 and fast-firing as these are the features of an effective offensive weapon.

1           9.     The AR-15 was therefore adopted by the U.S. military in the early  
2     1960s. The standard cartridge for the AR-15 is a .223Rem (5.56 is NATO  
3     equivalent) which was selected by the military for very specific reasons. While it  
4     is commonly reported that the AR-15 is a “high power” weapon, a singular .223  
5     cartridge is not in fact “high power” compared to almost all other hunting rifles  
6     that have been sold for more than a century in the United States. However, it was  
7     the small size of the .223 and 5.56 cartridge that was particularly important to the  
8     military because it allowed soldiers to greatly increase capacity in their rifles and  
9     magazines. Moreover, smaller rounds weigh less, meaning that this also  
10    increased the number of extra rounds soldiers could carry around.

11          10.    The bullets from these smaller and faster cartridges are very deadly  
12    at short and medium ranges. These cartridge characteristics were selected because  
13    they result in a rifle that can be high-capacity, accept loaded magazines which  
14    are easy to transport, and also be very easy to fire repeatedly while staying on  
15    target. The reasoning for the military decision on this chambering is summed up  
16    in this article from *Business Insider*: “The smaller rounds weighed less, allowing  
17    troops to carry more ammunition into the fight. They also created less recoil,  
18    making it easier to level the weapon back onto the target between rounds and  
19    making automatic fire easier to manage. Tests showed that troops equipped with

1 smaller 5.56 mm rounds could engage targets more efficiently and effectively  
2 than those firing larger, heavier bullets.”<sup>1</sup> This is why AR-15 and AK-47 platform  
3 weapons remain the assault weapon of choice for military operations in short and  
4 medium range scenarios where repeated, high volume and accurate offensive  
5 shooting is desired.

6 11. While most assault rifles today are designed to fire .223 or 5.56  
7 cartridges for reasons discussed above. Some are designed to fire more powerful  
8 rifle cartridges such as .300Win., .277Fury, 6.5CM, .308Win., and many others.  
9 Chamberings such as these are generally selected for longer-range engagements  
10 where low recoil and quick target engagement are not as important. Rifles using  
11 these more powerful cartridges are much more difficult to control during short  
12 and medium range rapid fire but are far more effective at penetrating helmets and  
13 bulletproof vests, especially at longer ranges (up to 1000 yards).

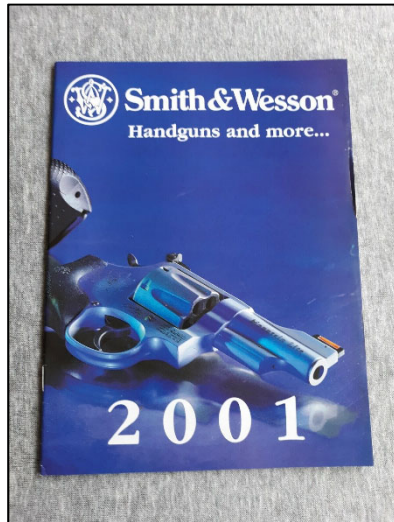
14  
15 <sup>1</sup> Alex Hollings, *The US military has been using the 5.56 mm round for*  
16 *nearly 60 years—here’s how it all got started*, Business Insider Mag. (June 29,  
17 2022, 1:10 PM), [https://www.businessinsider.com/why-did-us-military-switch-](https://www.businessinsider.com/why-did-us-military-switch-from-762mm-round-to-556mm-2019-9)  
18 [from-762mm-round-to-556mm-2019-9](https://www.businessinsider.com/why-did-us-military-switch-from-762mm-round-to-556mm-2019-9) (last visited Jan. 27, 2023) (story on  
19 background of AR-15 chambering history).

1           12. The AR-platform, in particular, is the civilian version of the  
2 military's select-fire M-16 and M-4 rifles, which are capable of fully automatic  
3 or burst firing. Based on my familiarity with the firearms industry, AR-platform  
4 rifles and similar semiautomatic rifles did not begin to sell in significant numbers  
5 until the late 2000s and particularly after the 2012 shooting at Sandy Hook  
6 Elementary in Newtown, Connecticut.

7           13. During the mid-2000s, and especially after Sandy Hook, the  
8 firearms industry shifted towards marketing efforts specifically focused on  
9 developing the "tactical market." In the industry, the term "tactical" generally  
10 refers to weapons and accessories that are meant for offensive military or law  
11 enforcement operations. This market now generally includes AR-15s, battle  
12 pistols and other handguns from various manufacturers and accessories such as  
13 bullet-proof vests and a wide variety of large capacity magazines.

14           14. Here are two images which illustrate the dramatic transition in the  
15 gun industry from the time when tactical guns were not accepted or normalized  
16 to the current when they are a central business focus. The first is an image of the  
17 2001 Smith and Wesson annual product catalog cover in which a traditional  
18 revolver is featured, the second is the 2019 Smith and Wesson catalog cover on  
19

1 which the Smith and Wesson M&P15 pistol and rifle are also featured  
 2 prominently. Neither of those additional “tactical” firearms existed in 2001:



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11 15. The AR-platform, in particular, is the civilian version of the  
 12 military’s select-fire M-16 and M-4 rifles, which are capable of fully automatic  
 13 or burst firing. Based on my familiarity with the firearms industry, AR-platform  
 14 rifles and similar semiautomatic rifles did not begin to sell in significant numbers  
 15 until the late 2000s and particularly after the 2012 shooting at Sandy Hook  
 16 Elementary in Newtown, Connecticut.

17 16. While the AR-15 and its derivatives are by far the most common  
 18 assault-style rifles in the United States, there are many other firearms that share  
 19 the same purpose and generally have the same defining features, including the

1 ability to accept large capacity magazines. Those firearms include firearms  
2 utilizing all or part of the AK-47 platform as well as many others. The original  
3 patent for the gas operating system central to the AR-15 being rapidly fired with  
4 minimal recoil expired in 1977,<sup>2</sup> which subsequently allowed the engineering  
5 prints for the AR-15 to be publicly available to all firearms companies.

6 17. From that point forward, there could have been a large-scale,  
7 immediate, and legal proliferation of direct copies of these rifles and other high  
8 capacity semi-automatic guns into the United States commercial market. But that  
9 did not happen, at least not until nearly two decades later. In fact, when I first  
10 started my work in the gun industry in the 1990s, assault weapons such as AR-15s  
11 and the 30-round magazines we see in advertising and mass shootings today, were  
12 not common, and within the gun industry the acceptance or promotion of this  
13 product category was thought to be irresponsible and potentially dangerous.

14 18. This former self-imposed industry “regulation” about assault rifles  
15 and large capacity magazines was publicly voiced by William B. Ruger, the  
16 widely revered founder of Sturm Ruger, which is now one of the largest  
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18 <sup>2</sup> Gas Operated Bolt and Carrier System, U.S. Patent No. 2,951,424  
19 (accessible at <https://patents.google.com/patent/US2951424A/en>)

1 companies in the industry. During an interview with Tom Brokaw, Ruger stated  
 2 what was common industry consensus: “No honest man needs more than 10  
 3 rounds in any gun.” He went on to clarify what most industry executives believed  
 4 to be wise policy: “I never meant for simple civilians to have my 20 or 30 round  
 5 magazines.”<sup>3</sup> For decades, opinions like that of William Ruger were reinforced  
 6 throughout the industry in hundreds of large and small ways and this sentiment  
 7 was still very prevalent when I entered the industry in 1995. Almost everyone I  
 8 encountered believed that AR-15s were military assault weapons and the large  
 9 capacity magazines which often accompanied these weapons were dangerous and  
 10 were not to be sold or displayed to the civilians.

11 19. During the period between 1964 and 1994, first for Colt, and then  
 12 also for all companies who produced the guns after Colt’s patent sunset,  
 13 commercial AR-15 sales averaged fewer than 27,000 units per year for a total of  
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 16 <sup>3</sup> *Magazine limits were first proposed by Connecticut gun maker,*  
 17 *Connecticut Magazine* (April 1, 2013), [https://www.nhregister.com/](https://www.nhregister.com/connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php)  
 18 [connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php](https://www.nhregister.com/connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php) (Last  
 19 Viewed Feb 1 2023) (Article on William Ruger’s position on LCMs).

1 about 787,000 units in the 30-year period 1964–1994.<sup>4</sup> As an example of the rarity  
 2 of assault weapons in the firearms industry during those years, consider that in  
 3 1990, there were about 4.4 million guns sold in the United States (total reported  
 4 U.S. production + total imports - total exports).<sup>5,6,7</sup> According to the NSSF,  
 5 74,000 of those were assault weapons, which means that assault weapons were

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 8 <sup>4</sup> Estimating AR-15 Production, 1964–2017 (Nov. 9, 2019),  
 9 [http://www.generalstaff.org/Firearms/Count/AR15\\_Production.htm](http://www.generalstaff.org/Firearms/Count/AR15_Production.htm) (last visited  
 10 Jan. 12, 2023) (compiling data from the Bureau of Alcohol Tobacco, Firearms &  
 11 Explosives' *Annual Firearms Manufacturing and Export Reports*, among other  
 12 sources).

13 <sup>5</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, *Firearms*  
 14 *Commerce in the United States: Annual Statistical Update 2021* at 1–2,  
 15 [https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-](https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download)  
 16 [report/download](https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download) (Exhibits 1–1a).

17 <sup>6</sup> Total firearms imported by year, Statista,  
 18 [https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)  
 19 [us/](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)

<sup>7</sup> Total firearms exported by year, Statista,  
[https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)  
[us/](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)

1 only 1.6% of 1990 domestic gun sales.

2 20. Even after the federal legislation expired, the gun industry did not  
3 immediately begin producing or selling these guns in large numbers. That is  
4 because there was a continued general agreement by the vast majority of industry  
5 leaders that these guns, which were very clearly designed for military-style,  
6 offensive (i.e., attacking) use, and related gun paraphernalia—including virtually  
7 all large capacity magazines, which were generally also considered to be for  
8 military-style, offensive use—would not be displayed at trade shows or used at  
9 industry-sponsored shooting events.

10 21. This is why until well into the mid 2000s, the industry would not  
11 allow any company to display any “tactical” gear in the main section of the largest  
12 industry trade shows like S.H.O.T. (the Shooting Hunting Outdoor Trade show  
13 which is governed by NSSF). At that time, in order to enter the special Military  
14 and Law Enforcement section of the S.H.O.T show, where this tactical gear was  
15 displayed, an attendee was required to present verified military or law  
16 enforcement identification credentials. These rules were enforced by the industry  
17 because it was universally accepted that firearms designed for tactical or “assault”  
18 purposes deserved this special regulation or voluntary responsibility.

19 22. This formerly understood voluntary prohibition also extended to the

1 many gun stores and all of the largest sporting goods retailers in the country.  
2 Almost none of which would sell or display assault weapons or AR-15s or  
3 AK-47s in their stores until the mid-2000s. This remained true as late as 2006. It  
4 was not until very recently that the gun industry began to push AR-15s, LCMs,  
5 and other assault-style guns, leading to the more prominent marketing we see  
6 today.

7 23. This table of data compiled by the National Shooting Sports  
8 Foundation (NSSF), the firearms industry trade group, clearly illustrates that  
9 sales of such guns (MSR, AR-15 and AK-47) have increased dramatically. In  
10 2020, assault weapons comprised 12.2% of total gun sales, seven times higher  
11 than the 1990 percentage. In numeric terms sales have increased by nearly 4000%  
12 from 1990 until now, despite the fact that no federal, and few state restrictions on  
13 such guns existed in 1990. (74,000 units in 1990 versus 2,798,000 in 2020) (*see*  
14 *next page*):<sup>8</sup>

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19 <sup>8</sup> ATF AMER, US ITC, *Industry Estimates*, [https://www.nssf.org/wp-content/uploads/2022/07/EstMSR1990\\_2020.pdf](https://www.nssf.org/wp-content/uploads/2022/07/EstMSR1990_2020.pdf) (last visited Jan. 12, 2023).

### Estimated Modern Sporting Rifles in the United States 1990 – 2020

Year	US Production less exports of MSR/AR platform	US Import less exports of MSR/AR, AK platform	ANNUAL TOTAL
1990	43,000	31,000	74,000
1991	46,000	69,000	115,000
1992	33,000	72,000	105,000
1993	62,000	226,000	288,000
1994	103,000	171,000	274,000
1995	54,000	77,000	131,000
1996	27,000	43,000	70,000
1997	44,000	81,000	125,000
1998	70,000	75,000	145,000
1999	113,000	119,000	232,000
2000	86,000	130,000	216,000
2001	60,000	119,000	179,000
2002	97,000	145,000	242,000
2003	118,000	262,000	380,000
2004	107,000	207,000	314,000
2005	141,000	170,000	311,000
2006	196,000	202,000	398,000
2007	269,000	229,000	498,000
2008	444,000	189,000	633,000
2009	692,000	314,000	1,006,000
2010	444,000	140,000	584,000
2011	653,000	163,000	816,000
2012	1,308,000	322,000	1,630,000
2013	1,882,000	393,000	2,275,000
2014	950,000	237,000	1,187,000
2015	1,360,000	245,000	1,605,000
2016	2,217,000	230,000	2,447,000
2017	1,406,000	158,000	1,564,000
2018	1,731,000	225,000	1,956,000
2019	1,679,000	169,000	1,848,000
2020	2,466,000	332,000	2,798,000
TOTALS	18,901,000	5,545,000	24,446,000

Source: ATF AFMER, US ITC, Industry estimates

24. It is my experience that this proliferation is the result of a direct and purposeful industry marketing effort to assert that these guns are “common.” In 2009, as part of this effort, the firearms industry through the NSSF, facilitated a public re-branding of assault rifles in an effort to make them more socially acceptable. As such, the NSSF broadly encouraged an industry-wide effort to rename such guns “Modern Sporting Rifles” or MSRs. This is not unlike the

1 effort of Colt to market a “Sporting rifle” in previous decades, but unlike the  
 2 failed marketing of Colt in the 1980s, beginning in the late 2000s the AR-15s  
 3 were increasingly sold with LCMs and steadily “improved” in many functional  
 4 areas that increase the lethality of a military assault rifle.

5 25. At the same time the NSSF was softening the public image of these  
 6 weapons with the MSR campaign, many individual assault rifle companies began  
 7 to market the guns in ways that dispensed with any attempt to pretend the guns  
 8 were “sporting” firearms. Despite the fact that the rifles and LCMs were not  
 9 sporting guns, all industry members, including me, were strongly encouraged to  
 10 stop using the term “assault rifle” or even “tactical weapon” because those terms  
 11 were thought a too-transparent label that referenced offensive military assaults  
 12 which would therefore harm the public perception of such guns and decrease the  
 13 sales of companies that build them.

14 26. The terms “Assault Rifle” and “Assault Weapon” were first used to  
 15 describe the German WW2 “Sturmgewehr”-44 rifle, which roughly translates to  
 16 “Storm” or “Assault” rifle.<sup>9</sup> The name was subsequently applied to many similar  
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18 <sup>9</sup>Aaron Smith, *The Nazis’ assault rifle now made in America*,  
 19 CNN Business (June 29, 2016, 11:57 AM) <https://money.cnn.com/2016/06/29/>

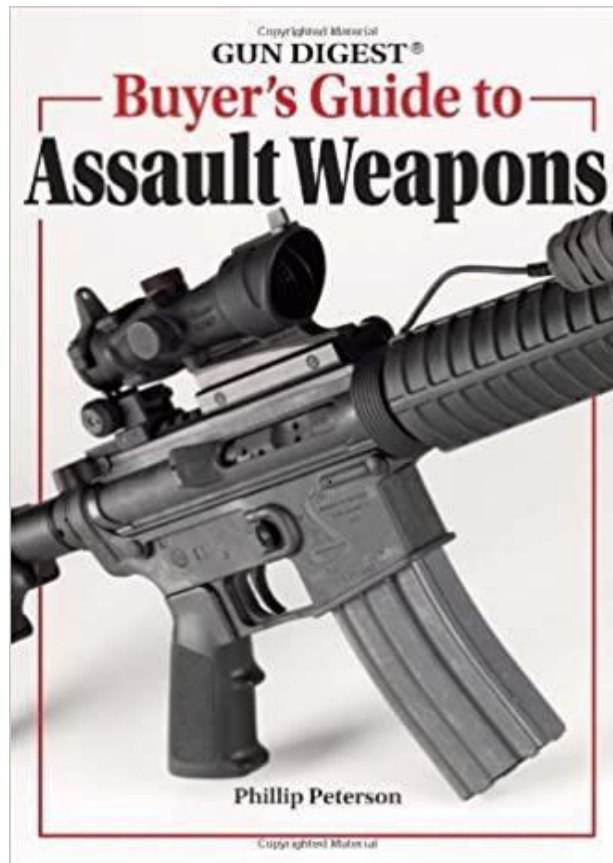
1 rifles in the coming decades including dozens of models sold in the United States.  
2 Well into the 2000s, almost everyone I knew in the industry used the terms  
3 “assault weapon” and “assault rifle.” During my career, I personally experienced  
4 the overt NSSF effort which sought to deflect away from that moniker by  
5 reframing the origin of this terminology. This effort is still ongoing today and  
6 commonly referenced industry instructions remain on the NSSF website: “If  
7 someone calls an AR-15 or other semi-automatic rifle an “assault weapon,” he or  
8 she either supports banning these firearms or does not understand their function  
9 and sporting use, or both. Please correct them. “Assault weapon” is a political

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[smallbusiness/german-sturmgewehr-assault-rifle/index.html](https://smallbusiness/german-sturmgewehr-assault-rifle/index.html) (last viewed May 5,  
19 2023) (CNN article on the derivation of the term “assault rifle”).

1 term created by California anti-gun legislators to ban some semi-automatic rifles  
 2 there in the 1980s.”<sup>10</sup>



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18 <sup>10</sup> NSSF MSR marketing webpage: <https://www.nssf.org/msr/> (last visited  
 19 Jan 20, 2023)

1           27. The firearms industry openly referred to these and all similar  
2 weapons as “assault weapons” and “assault rifles” as late as 2008, as evidenced  
3 by this 2008 issue of Gun Digest, a publication which is commonly accepted in  
4 the industry as a prominent authority and advertising venue:<sup>11</sup>

5           28. Since the late-2000s there has been a rapid increase in the number  
6 of companies that manufacture and market versions of AR-15s, other similar  
7 assault weapons which are now increasingly sold and marketed with LCMs. This  
8 has resulted in a transformation of the marketplace from only a few AR-15  
9 manufacturers in 2000, to several hundred AR-15/assault rifle companies today.  
10 The list of AR-15 manufacturers now includes small, medium, and the largest  
11 firearms companies in the United States, all of whom are striving to obtain market  
12 share with derivatives of what is effectively the same product.

13           29. This crowded marketplace has created a highly competitive  
14 environment resulting in thousands of “continuous improvements” in  
15 AR-15-style firearms sold to the general public as a way to encourage consumers  
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17           <sup>11</sup> One of many listing for archived issues of Gun Digest for sale from  
18 various resellers: [https://www.amazon.com/Digest-Book-Assault-Weapons-](https://www.amazon.com/Digest-Book-Assault-Weapons-Fifth/dp/087341778X)  
19 [Fifth/dp/087341778X](https://www.amazon.com/Digest-Book-Assault-Weapons-Fifth/dp/087341778X) (last visited Jan 30, 2023)

1 to buy one rifle over another. Over time, these improvements developed by  
2 various individual companies have generally been incorporated on most rifles  
3 across the marketplace and the result are firearms that are almost universally  
4 more accurate, more portable, and more specifically tailored to produce lethal  
5 outcomes.

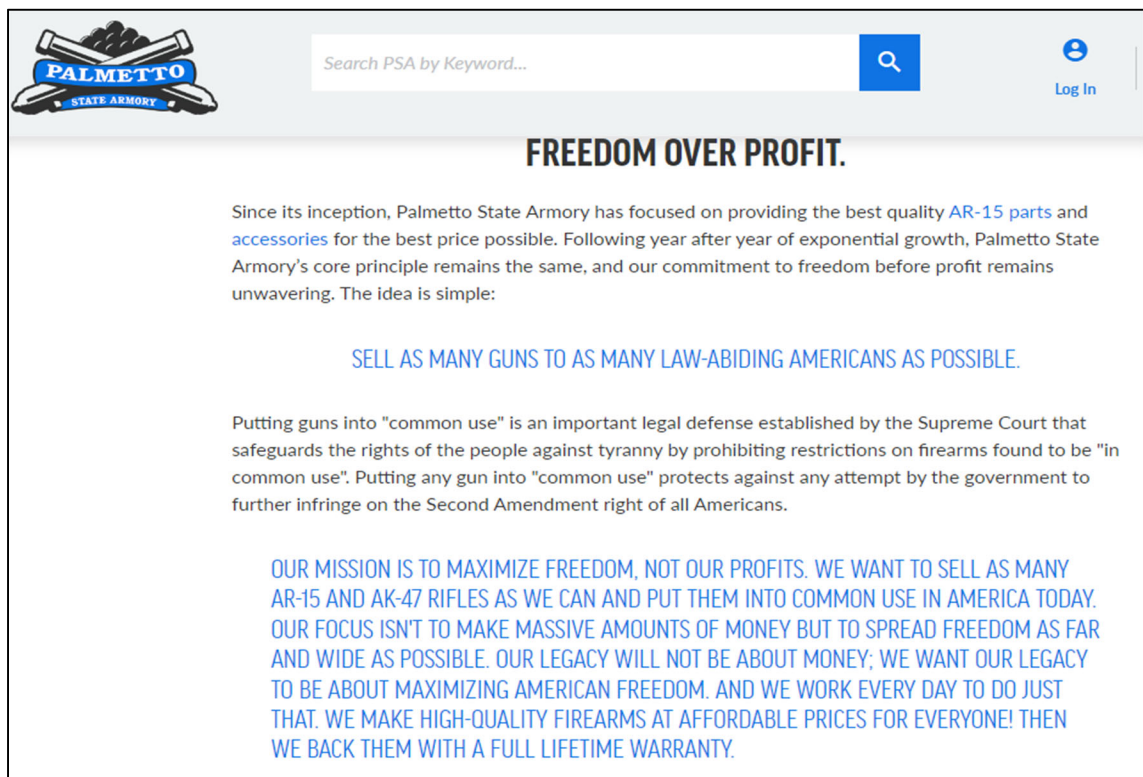
6 30. In my experience, most industry members commonly discuss the  
7 Heller decision and openly discuss how to utilize the right to self-defense as  
8 established in that decision even if many of the firearms being marketed are  
9 designed for offensive or tactical operations.

10 31. Finally, because most industry members are aware of Heller and  
11 subsequent legal decisions, they are savvy to the impact they can have on the  
12 marketplace. An illustrative example of this industry-wide effort can be found in  
13 the mission statement of Palmetto Armory, which is one of the largest retailers in  
14 the United States. Palmetto publicly partners with most of the largest  
15 manufacturers and even hosts a large annual “gathering” which is supported and  
16 attended by leading industry companies.<sup>12</sup> Palmetto’s prominence is important

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18 <sup>12</sup> Website advertising Palmetto State Armory Industry “Gathering”:  
19 <https://palmettostatearmory.com/thegathering.html> (last viewed March 21, 2023)

1 because their well-known and openly-advertised mission, found in the image  
 2 below, is not focused on self-defense or even profit, rather it is specifically  
 3 focused on quickly establishing that certain guns and LCMs are “common” as  
 4 mentioned in the Heller decision; “we want to sell as many AR-15 and AK-47  
 5 rifles as we can and put them into common use in America today.”<sup>13</sup>



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 17  
 18 <sup>13</sup>

Mission Statement, Palmetto State Armory,

19 <https://palmettostatearmory.com/about-psa.html> (last viewed March, 22, 2023).

1     **A.     Features of AR15s and Other Assault Weapons and Their Necessity to**  
 2     **Self Defense**

3           32.     While there is no universally accepted definition of “assault rifle,”  
 4     the term generally refers to a firearm that incorporates a set of physical features  
 5     that increase the effectiveness of killing enemy combatants in offensive  
 6     battlefield situations, usually in close and medium-range warfare. This list of  
 7     features generally includes, but is not limited to, the features enumerated  
 8     pertinent Washington law and includes pistol grips, semi-automatic or fully  
 9     automatic fire control systems, the capability to accept detachable magazines,  
 10    folding or telescoping stocks, and barrel shrouds.

11           33.     The AR-platform is highly modular, enabling owners to customize  
 12    their rifles with a variety of interchangeable components. Some components of a  
 13    firearm are integral to its operation, such as a trigger mechanism or barrel, and  
 14    the firearm will not function properly without them. But the particular  
 15    components which qualify a weapon as an “assault weapon” if it is equipped with  
 16    them, are not integral to the basic operation of any firearm and are not necessary  
 17    to use a firearm effectively for self-defense or sporting purposes, such as hunting.  
 18    I address some of these features in the following points.

19           34.     **Pistol grip.** Pistol grips beneath the action of a rifle or shotgun are

1 not necessary to operate those weapons as designed. A pistol grip is a feature  
 2 incorporated into some firearm stocks or as a piece separate from the stock, that  
 3 allows the shooter to control and aim the rifle during periods of rapid fire. For  
 4 many decades, non-pistol grip stock designs have been standard on firearms such  
 5 as Remington 870 shotguns which are widely accepted to be among the most  
 6 effective home defense guns ever built and which have been leading sellers in the  
 7 firearms market. Even on AR-15s and similar rifles, stocks that do not incorporate  
 8 this feature are currently sold in states such as California, and prominent, widely  
 9 referenced firearms authorities on these topics, such as [www.caligunner.com](http://www.caligunner.com),  
 10 assess those options and the function of these “compliant” (non-pistol grip) rifles  
 11 in this manner: “Everyone has a preference on what looks the ‘best’ but the top  
 12 picks below are all great functioning options.”<sup>14</sup> As also noted on that website,  
 13 while “[s]ome people that are critical of the featureless option complain of the  
 14 aesthetics of the available options,” “the overall function of the rifle is mostly  
 15 maintained,” and “several companies continue to innovate and provide new

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16  
 17 <sup>14</sup> *2021 Featureless AR-15 Rifles: All You Need to Know!*,  
 18 CaliGunner.com, <https://caligunner.com/california-compliant-featureless-rifle/>  
 19 (last visited Dec. 30, 2022)

1 products that look decent and perform well considering the constraints of the  
 2 law.” While a pistol grip beneath the action of a rifle may be useful during  
 3 military operations because it helps the shooter stabilize the weapon and reduce  
 4 muzzle rise during rapid fire, a pistol grip is not necessary to operate a firearm  
 5 safely in lawful self-defense situations.

6       **35. Forward Grip, Foregrip, or Second Handgrip.** This feature is  
 7 designed to aid in firearm stabilization during the rapid firing of assault rifles and  
 8 assault pistols. The feature first gained prominence inside special operations  
 9 military units where “cluttering” from accessories and extreme heat generated  
 10 from the rapid firing of rifles were problems for troops in wartime situations.  
 11 A concise description of the feature’s first official origin is found in this firearms  
 12 industry review from Lucky Gunner: “One of the items issued in this kit was a  
 13 Knight’s Armament vertical forward grip, and it was included in order to deal  
 14 with the problem of the forward rails becoming too cluttered to hold correctly  
 15 when the other accessories were mounted. It also retained the benefits of recoil  
 16 control and heat mitigation that made it a popular feature on submachine guns.”<sup>15</sup>

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 18       <sup>15</sup> Kyle Eggimann, *Stop Holding Your AR Like That*, Lucky Gunner  
 19 (Aug. 7, 2014), <https://www.luckygunner.com/lounge/how-to-hold-an-ar15->

1 As this article details, forward grips can be an effective feature for troops charged  
 2 with fast and efficient killing of enemy combatants in warfare, but in my opinion,  
 3 they are not a necessary feature for self-defense.

4       **36. Folding, telescoping, or thumbhole stock.** The stock is the part of  
 5 a firearm that allows it to be held at the shoulder for firing. A folding or  
 6 telescoping stock can be collapsed to shorten the length of the rifle (or extended  
 7 to increase its length). A firearm does not need an adjustable stock to operate as  
 8 designed and can be equipped with fixed-length stocks instead. Original rifles on  
 9 which the currently existing and newly manufactured AR-15s are based, and that  
 10 were accepted by hundreds of thousands of military officers as their weapon of  
 11 choice for decades, did not incorporate a folding stock and no credible firearms  
 12 authority I am aware of has ever claimed that those firearms did not function  
 13 effectively due to the lack of a folding stock. Further, there are still non-folding  
 14 stock options available today and all are sold and advertised as fully functioning  
 15 options for semiautomatic and bolt action rifles.

16       **37. Barrel Shroud.** A barrel shroud wraps around the barrel of a rifle  
 17 or pistol, enabling the shooter to grasp the barrel during firing without burning  
 18

19 [foregrip/](#) (last visited Jan. 10, 2023).

1 the non-trigger hand as the rifle heats up in rapid-fire and continuous-fire  
2 situations. A barrel shroud is not necessary to operate a rifle or pistol as designed  
3 in self-defense situations.

4 **38. Flash Suppressors, muzzle brakes, and muzzle compensators.**

5 Muzzle brakes, and compensators are devices added to the end of a firearm barrel  
6 that are designed to direct the gas produced from firing in directions that result in  
7 reduced “felt recoil” and “muzzle rise.” These devices are therefore designed to  
8 aid the shooter in staying on target in extended rapid-fire situations. Some of  
9 these devices are also commonly referred to as flash suppressors, which are  
10 devices that are attached to the muzzle of a firearm to also reduce or redirect the  
11 flash when shooting. This feature is affixed to military rifles to redirect the light  
12 (muzzle flash) generated from the burning of gasses while firing which reduces  
13 the prevalence of “night blindness” that can develop during low-light firefights.  
14 A flash suppressor also disguises the origin of fire and avoids detection by enemy  
15 forces but has marginal benefit in civilian self-defense situations, even in low-  
16 light conditions. As evidence for the lack of self-defense necessity for this  
17 feature, it is widely accepted that the most effective self-defense guns are  
18 handguns and home-defense shotguns. These firearms also produce muzzle rise  
19 and muzzle flash just like an AR-15 (or other assault rifles) and yet none require

1 a “flash suppressor,” “muzzle brake,” or “compensator” device to operate  
2 effectively in self-defense situations and I am not aware of any industry authority  
3 or advertisement that has ever claimed that such a firearm will not function as  
4 designed without such a device.

5       **39. Detachable magazines.** Magazines are containers which hold  
6 ammunition in spring-loaded preparation for feeding into the receiver of a  
7 firearm. Clips, while sometimes confused with magazines, are different and can  
8 generally be described as small holding devices that retain cartridges in  
9 preparation for faster loading into magazines. Magazines can either be “fixed,”  
10 meaning they are integral within the gun, or “detachable,” meaning they are not  
11 internally or permanently attached to the firearm. Many firearms, including some  
12 of the most revered self-defense firearms ever built, incorporate “fixed”  
13 magazines which means that these containers are permanently affixed to or inside  
14 the firearm. Examples include most pump and semiautomatic shotguns where a  
15 tubular magazine is affixed under the barrel. Magazines of this sort can be  
16 temporarily or permanently “plugged” or shortened to regulate capacity. Many  
17 rimfire rifles, including many semiautomatic designs, incorporate the same  
18 general fixed tubular magazine design. Most lever-action rifles use the same sort  
19 of tubular magazine. Many bolt-action hunting rifles utilize a fixed “box

1 magazine” design in which ammunition must be loaded into the permanent “box”  
2 below the bolt, and then fed into the receiver from that magazine with each cycle  
3 of the bolt. For “fixed magazine” firearms, in order to reload, the shooter must  
4 stop shooting and reload the magazine one cartridge at a time before resuming  
5 shooting. Conversely, detachable magazines enable a shooter to replace an empty  
6 or depleted magazine with a fresh magazine to resume firing in a manner that is  
7 much faster than stopping to reload fixed magazines. Unlike fixed magazines,  
8 detachable magazines can be preloaded and transported at the ready with the gun,  
9 effectively greatly increasing the potential number of rounds fired in any given  
10 period of time. For example, a component shooter with a common  
11 fixed-magazine bolt-action rifle may be able to accurately fire 15–20 rounds per  
12 minute with long pauses to reload whereas a component shooter with an AR-15  
13 and preloaded large capacity magazines can accurately fire more than 100 rounds  
14 per minute with very short pauses to change magazines. Detachable magazines  
15 may hold as many as 100 or more ammunition rounds but will also function with  
16 a single round.

17 40. It is my experience that magazines which limit capacity to as few as  
18 five rounds are commonly available and are often legally mandated for hunting  
19 in many states. It is my experience that even if large capacity magazines are

1 available or sold with firearms today, all firearms companies offer lower capacity  
2 options (often 10-round versions to comply with laws in various states).

3 41. Despite the recent proliferation of large capacity magazines, it is  
4 important to note that there is no known firearm that requires a large-capacity  
5 magazine to function as designed. By this I mean that all firearms that can accept  
6 a large-capacity magazine can also accept a magazine that holds fewer rounds  
7 and still function precisely as intended. This is true even of AR- and AK-platform  
8 rifles. Although many of these rifles are sold with a 30 round magazine, the  
9 manufacturers all offer the optional purchase of 10 round or even lower capacity  
10 magazines and could easily offer magazines limited to almost any given round  
11 count. There are many pistols (such as the very popular Model 1911—which was  
12 the accepted defensive sidearm of the U.S. Military for decades and is still one  
13 of the most widely owned guns in the United States) that are built for magazines  
14 of eight rounds or less. Other widely popular guns such as the Sig P938 are also  
15 designed to function with seven or eight round magazines and these guns have  
16 been widely acclaimed by dozens of notable firearms industry experts as among  
17  
18  
19

1 the most effective concealed carry/self-defense firearms on the market.<sup>16</sup> While  
 2 larger 10-plus round magazines exist for these pistols, a smaller magazine  
 3 (standard seven or eight round) is considered preferable by almost all consumers  
 4 because the physical size/profile of the shorter magazine is easier to carry, shoot  
 5 and conceal.

6 42. **Accessories to increase rate of fire.** It is also important to note that  
 7 there are accessories that are designed to modify a semi-automatic firearm in a  
 8 manner that allows it to fire at a rate that is nearly equal to that of a fully automatic  
 9 firearm. These include bump stocks (which are illegal in Washington), forced  
 10 reset triggers, and binary triggers. Forced reset triggers are aftermarket  
 11 accessories which replace the standard trigger group and allow firearms to be  
 12 fired at a rate nearly equal to fully automatic firearms. They are easy to install  
 13 and generally sell for between \$300 and \$500. Because of the debates as to the  
 14 legality of these triggers, the availability of these devices has been inconsistent.  
 15 Binary Triggers are also aftermarket devices that increase the potential rate of

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16  
 17 <sup>16</sup> Ben Findley, *Sig Sauer P938 Subcompact 9mm [FIREARM REVIEW]*,  
 18 USA Carry (Dec. 29, 2021) [https://www.usacarry.com/sig-sauer-p938-](https://www.usacarry.com/sig-sauer-p938-subcompact-9mm-review/)  
 19 [subcompact-9mm-review/](https://www.usacarry.com/sig-sauer-p938-subcompact-9mm-review/) (last visited Jan. 10, 2023).

1 fire for many models of firearms including AR-15s and similar rifles. Like forced  
2 reset triggers, these accessories replace the standard trigger group, are easy to  
3 install and generally retail for between \$300 and \$500. Among the three devices  
4 discussed in this section, binary triggers are the least controversial and therefore  
5 the most widely available. These triggers essentially allow firing when the trigger  
6 finger of the shooter moves either forward or backward and this results in a  
7 firearm that is capable of very high rates of fire. According to United States  
8 Concealed Carry Association, “a 30-round magazine can be emptied in about  
9 three seconds.” This means a competent shooter could fire between 400 and 600  
10 rounds per minute depending on magazine size. These triggers are widely  
11 available. Several models can be found for sale at many retailers and on many  
12 websites. In my opinion none of these accessories are applicable or desirable for  
13 self-defense.

14 **B. Marketing of AR-15s and Similar “Assault Weapons”**

15 43. Many of my opinions on these firearms and their histories are based  
16 directly on, or reinforced by, the industry’s own publicly available marketing. In  
17 other words, my opinions are also the opinions of the industry itself. In the section  
18 that follows, I offer many pertinent examples.

19 44. The trend towards increased capacity and lethality is easy to see in

1 AR-15s especially when current rifles are compared to the assault rifles requested  
2 and then adopted by the U.S. military or those sold by Colt 30 years ago. The  
3 commercially available AR-15s of today are more reliable, more accurate, more  
4 ergonomic, and therefore more effective. This trend of tactical “improvement”  
5 continues and is aggressively advertised each day by dozens of firearms  
6 companies. For example, below is a typical marketing page<sup>17</sup> for an AR-15  
7 manufacturer in which a prominent company advertises the various ways in  
8 which its features “improve” upon the basic AR-15 (additionally notice the large  
9 capacity magazine protruding in front of the pistol grip) (*see* next page):

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<sup>17</sup> <https://danieldefense.com/daniel-dna> (last visited Jan. 10, 2023).



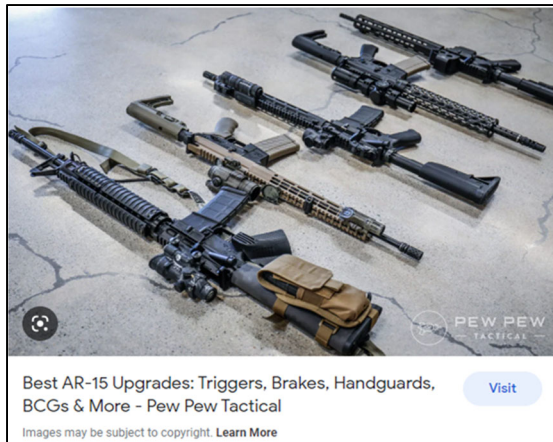
45. The increase in the AR-15 market has also facilitated an increase in accessories availability for the AR-15 and similar firearms. These accessories are commonly referred to as “furniture” because they are items a rifle owner can add to the gun, just as a person would add furniture to personalize an apartment.

1           46. Most AR-15s and similar firearms now incorporate features  
2 designed to accept one or more of dozens of accessories (furniture), all of which  
3 are designed and marketed to increase the effectiveness of the rifle in tactical  
4 battlefield situations.

5           47. The list of accessories includes hundreds of LCM options,  
6 highly-effective electronic optics, more sensitive triggers, devices such as bump  
7 stocks and modified trigger systems that convert guns to near-fully-automatic  
8 rates of fire, forward and pistol grip options, tactical lights, laser-pointing  
9 devices, and many others. Almost none of these accessories were available to the  
10 United States military at the time of the rifle's adoption in the early 1960s, and  
11 in many cases, U.S. civilians can now outfit rifles in a manner more lethal than  
12 the rifles carried by the military. There are now hundreds of companies and  
13 retailers who encourage customers to make their rifles more effective by  
14 accessorizing. Below are examples of industry marketing efforts that illustrate  
15 this trend.<sup>18</sup>

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17           <sup>18</sup> *Top 10 Black Guns AR Accessories*, Tactical Life (Dec. 5, 2013)  
18 <https://www.tactical-life.com/gear/top-10-black-guns-ar-accessories/> (last  
19 visited Jan. 10, 2023); Eric Hung, *Best AR-15 Furniture & Accessories*, Pew Pew



48. The competitive AR-15/assault rifle marketplace has also resulted in manufacturers seeking to create new customers through professional, targeted marketing campaigns. Most of these campaigns overtly target young American males, such as this example from 2010 (*see* next page):

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Tactical (Aug. 21, 2022), <https://www.pewpewtactical.com/best-ar-15-furniture-accessories/> (last visited Jan. 10, 2023).



49. The gun and LCMs advertised in this campaign (Bushmaster XM15 rifle) has been used by young men in notable mass shootings, including those in Sandy Hook, Connecticut, and Buffalo, New York.<sup>19</sup>

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<sup>19</sup> F. Riehl, *Proof of Your Manhood – The Man Card from Bushmaster*, Ammoland (May 7, 2010), <https://www.ammoland.com/2010/05/bushmaster-man-card/#axzz7q0HQao58> (last visited Jan. 10, 2023).

50. It is sometimes argued that commercially available assault weapons are not offensive weapons of war. But this is regularly and directly contradicted by prevalent firearms industry AR-15 marketing that encourages potential customers to buy and deploy the same weaponry as elite Special Forces units of the U.S. military. It is my experience that most of these customers are young men. In other words, despite the “modern sporting rifle” claims, marketing within the firearms industry admits to, and capitalizes on, the AR-15-style weapons and large capacity magazines as offensive military weaponry sold to young men. Here is a notable example.



1           51. A version of the Daniel Defense rifle in this advertisement was the  
2 weapon used in the Uvalde, Texas, shooting.<sup>20</sup>

3           52. Smith and Wesson's AR-15 variant is now widely reported to be the  
4 best-selling AR-15 in the United States. These rifles and their accompanying  
5 large capacity magazines have been used in notable mass shootings including in  
6 the Parkland, Florida school shooting and in the Highland Park, Illinois, July 4th  
7 parade shooting. Smith and Wesson's primary customers for this rifle are U.S.  
8 civilians who are generally not trained in military or police tactics nor monitored  
9 by military safety protocols, but the company's chosen name for this rifle—the  
10 M&P15, which means "Military and Police AR-15"—very directly trades on the  
11 concept that buyers of this rifle will be equipped with the same offensive rifles  
12  
13  
14

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15           <sup>20</sup> Michael Daly, *Uvalde Shooter's Gunmaker Hypes 'Revolutionary' New*  
16 *Killing Machine*, The Daily Beast (Jun. 8, 2022, 5:18 AM)  
17 [https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine)  
18 [daniel-defense-hypes-revolutionary-new-killing-machine](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine) (last visited Jan. 10,  
19 2023) (showing Daniel Defense advertisement).

as trained military and police units.<sup>21</sup> Here is an image of the rifle along with the conspicuous large-capacity magazine:



53. An increasing number of smaller AR-15 manufacturers now regularly seek to grow their market by advertising in ways that depict young men with AR-15s inciting or engaging in armed urban warfare, such as in this recent example from AR-15 maker Spike's Tactical, which encourages men to deploy their AR-15s (each one equipped with large capacity magazine) in armed conflict across the United States:<sup>22</sup>

<sup>21</sup> *Spec Sheet, M&P 15 Sport II Series, Smith & Wesson*, <https://assets.contentstack.io/v3/assets/bltb61dcb3c40854cd9/blt1d654c3b1f9c4ce4/63b1d9077760ab1f00b00a3a/10202.pdf> (last visited Jan. 10, 2023).

<sup>22</sup> *Left-wing media outlets lose minds over gun ad, disregard basic rules of*



54. Some AR-15 manufacturers now often seek to spur sales by depicting men deploying their personal AR-15s and large capacity magazines in self-appointed armed offensive vigilante actions, such as the below advertising image supplied by the AR-15 maker Patriot Ordnance Factory (*see next page*):<sup>23</sup>

*journalism*, Spikes Tactical (Jan. 11, 2018):

<https://www.spikestactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-basic-rules-of-journalism/> (last visited Jan. 10, 2023).

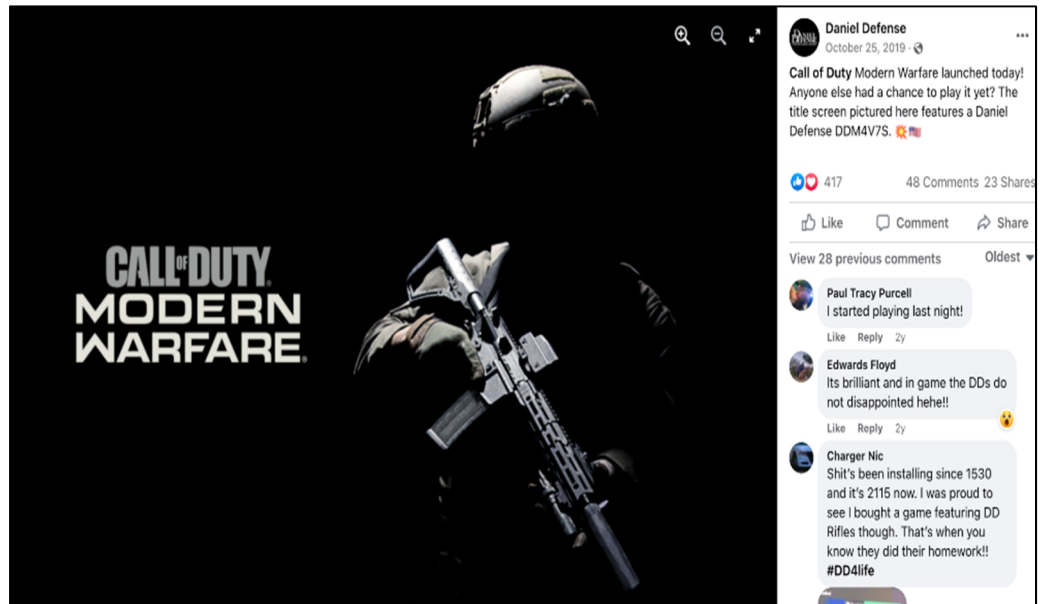
<sup>23</sup> <https://pof-usa.com/wallpapers/> (last visited Jan. 10, 2023).



55. Many firearms companies now seek out, and celebrate placement of assault weapons in popular video games that are commonly played by children. The following is a notable example of an AR-15 company celebrating the placement of their gun into the Call of Duty Modern Warfare video game (*see* next page):<sup>24</sup>

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<sup>24</sup> Ryan Busse, *The Gun Industry Created a New Consumer. Now It's Killing Us.*, The Atlantic (July 5, 2022) <https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/> (last viewed Feb 1 2023)



56. Some prominent AR-15 companies design and market their rifle models with specific suggested uses that bear obvious similarities to mass shooting events that have happened in U.S. urban environments such as the Pulse Nightclub, Las Vegas Concert Shooting, and the El Paso Walmart shooting. These campaigns typically do not reference self-defense and instead rely upon marketing assault rifles in offensive or “tactical” actions. Below is one relevant example from AR-15 maker Wilson Combat:<sup>25</sup>

<sup>25</sup> <https://www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/>

(last visited Jan. 10, 2023).



57. There are many AR-15 companies that combine the trends of continuous improvement, accessorization, and modern digital marketing to encourage potential customers to optimize their rifles through an online ordering process. Below is one such example.<sup>26</sup> The official corporate name of this manufacturer further suggests the preferred use of their AR-15s is in offensive action from “rooftops,” which is precisely how the shooter during the July 4th Highland Park, Illinois, parade deployed his AR-15 rifle and LCMs.



<sup>26</sup> <https://rooftoparms.com/> (last visited Jan. 10, 2023).

### III. SUMMARY

58. There may be arguments presented in this case that suggest that the assault weapons regulated by the Washington law have widespread and long-held sporting or self-defense histories or that they have always been accepted and promoted by the firearms industry.

59. It is my personal experience that these assertions are directly contradicted by both historical facts and industry marketing, both of which I experienced personally. These firearms were designed for and are often deployed as offensive or tactical weapons by police and military units.

60. It is also my experience and opinion that the firearms regulated by this law are not necessary for self-defense.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 22<sup>nd</sup> day of May, 2023, at Kalispell, Montana.



RYAN BUSSE

**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of May, 2023, at Seattle, Washington.

/s/ Andrew R.W. Hughes

ANDREW R.W. HUGHES, WSBA #49515  
Assistant Attorney General